IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5504 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE PRADIP KUMAR SARKAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

G S R T CORPN

Versus

BL MENA

Appearance:

MR HARDIK C RAWAL for Petitioner

RULE SERVED for Respondent No. 1

CORAM : MR.JUSTICE PRADIP KUMAR SARKAR

Date of decision: 25/07/2000

ORAL JUDGEMENT

Heard learned counsel Mr. H.C. Rawal, appearing on behalf of the petitioner - GSRTC. Inspite of service of the rule, respondent is not present either in person or through a learned counsel to represent his case.

2. The respondent workman is working as Helper with the petitioner Corporation. While in service on 18-3-93 during office hours, respondent Mr. B.L. Mena left the workshop without completing the work assigned to him. Thereafter he was found in the staff-room . The respondent vomited and urinated in the staff room and he was found sleeping during lunch break. It is also alleged that, since the respondent spoiled the staff room, other staff could not take their lunch on the said date. Accordingly the authority initiated departmental inquiry against the respondent for his misconduct. During inquiry the charges framed against the respondent have been proved by oral and documentary evidence. The disciplinary authority after considering report of the Inquiry Officer, and after giving show cause notice to the respondent, reduced his basic pay at its initial stage of Rs.750-00. The respondent took up the dispute to the Government, which referred the matter to the Industrial Tribunal, Vadodara, where Industrial Tribunal registered his case being Reference (IT) No. 202 of 1995. The Tribunal after hearing the parties, by its judgment & award dated 22-10-1999 quashed the order of disciplinary authority dated 28-3-1993. Having felt aggrieved by the order of the Industrial Tribunal, Vadodara, the Corporation has filed this petition.

3. Mr. Rawal, learned counsel appearing on behalf of the petitioner submitted that the charges framed against the respondent regarding taking of alcohol and vomiting in the staff room have been proved by the witnesses examined by the Inquiry Officer, and therefore, the Tribunal could not have disbelieved these witnesses. It is further submitted by Mr. Rawal that, during inquiry all the witnesses have stated that the respondent was sleeping in the staff room after taking intoxicants and he has also vomited and urinated in the staff room. It is admitted by the witnesses during inquiry that they have seen the respondent under influence of liquor. Mr. Rawal accordingly submitted that, since during inquiry the charges were proved against the respondent, the Tribunal should not have interfered with the findings of the Inquiry Officer. It is also submitted by Mr. Rawal that, during proceeding before the Tribunal some witnesses might have been gained over by the respondents and the Tribunal has committed an error in relying upon the witnesses who were gained over by the respondent. Learned counsel also submitted that, it is an admitted fact that the respondent was found sleeping and he was under influence of liquor. Therefore, if such misconduct goes unpunished, then it would be difficult to maintain

discipline in the office of the petitioner.

4. Learned counsel further submitted that the Tribunal has relied upon the order of the Criminal Court. It is submitted that, in a criminal trial strict proof is required before any person is convicted and sentenced for committing any offence, but in a disciplinary proceeding such strict proof is not necessary, and the only thing that is required to be proved is whether the conduct of the person charged have been proved by a reasonable evidence. Further the Tribunal did not believe that the respondent has vomited or urinated in the staff room, because no panchnama was drawn by the authority. I do not think for proving this allegation a panchanama is required to be drawn up when other staff members have categorically stated in their evidence before the Inquiry Officer about the misconduct of the respondent. Therefore I am of the view that the Tribunal should not have interfered with the findings of the Inquiry Officer. Accordingly, I am of the view that the tribunal taking a very liberal view has quashed the order of the disciplinary authority. Having regarding to the submissions of learned counsel for the petitioner and after going through the judgment & award of the Industrial Tribunal, Vadodara, I am of the view that the Tribunal should not have interfered with the penalty imposed by the disciplinary authority. If such misconduct goes unpunished, then, it will be difficult for the Corporation to maintain discipline in their office. Consequently, I am of the view that the Tribunal was wrong in interfering with the findings of the disciplinary authority and the penalty imposed by the said authority. Accordingly the order of the Industrial Tribunal, Vadodara, passed in Reference (I.T.) No. 202 of 1995 on 22-10-1999 is hereby quashed. Rule made absolute. However I make no order as to costs.

Dt: 25-7-2000

(P.K. Sarkar, J)

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